


**FAIRFAX COUNTY, VIRGINIA**

**MEMORANDUM**

TO: Board of Supervisors  
FROM:  John J. Adair, Auditor to the Board  
Office of Financial and Programs Auditor

DATE: December 16, 2009

SUBJECT: Quarterly Status Report on Operations

**EXECUTIVE SUMMARY**

Monies and goods seized in connection with illegal gambling and narcotics distribution may be provided to the Police to promote law enforcement after separate criminal and civil court cases are successfully tried by the Commonwealth's Attorney's Office.

Higher priority criminal cases in the Commonwealth's Attorney's Office resulted in delays between the criminal and civil proceedings for many seized asset cases. We worked with the County Attorney and Police staff to improve this situation.

The County Attorney and Chief of Police met this quarter with the Commonwealth's Attorney who agreed to allow the County to provide assistance to his Office on civil seized asset cases. On December 16, 2009, the Commonwealth's Attorney's Office is scheduled to proceed with 60 seized asset cases, 46 involving cash totaling \$172,000 and 14 involving seized vehicles. By using seized vehicles that are forfeited, the Police ultimately may be able to reduce lease and rental costs incurred for undercover vehicles.

At the request of the Board's Audit Committee, we reviewed change orders, and the change order process, associated with the \$2.6 billion contract for Phase I of the Dulles Corridor Metrorail Project. As of October 2009 change orders totaling a net of about \$26.9 million have been approved.

We met this quarter with Housing and Community Development staff to discuss the processes they use to verify income and adjust subsidies for low income individuals and families living in County rental housing, and the actions taken on fraud referrals. We noted that from April through September 2009, as a result of hearings conducted on fraud referrals received, housing assistance provided to 72 families was terminated.

We continued our review of County take home vehicles, concentrating on the public safety agencies which use 92% of the vehicles taken home. We looked at both the agency justifications and the call backs reported to support the need for the take home vehicles. We believe call back information in this report will be helpful to the agencies and the Department of Management and Budget in Fiscal Year 2011 budget discussions.

## **POLICE DEPARTMENT'S ASSET FORFEITURE PROGRAM**

At our June 2009 Audit Committee meeting, the Audit Committee asked whether the Police could use vehicles it had seized in drug and gambling arrests for some of its undercover work, thereby reducing lease and rental vehicle costs. A police representative at the meeting said that while many vehicles had been seized, the vehicles could not be used until a civil proceeding had been completed and final orders issued forfeiting the vehicles to the Police.

Discussion ensued as to whether it would be helpful if the Police Department had its own attorney to help expedite civil proceedings involving assets that had been seized. Our Office was asked to begin a review of this area.

We worked with the Police Department and the County Attorney's Office to determine whether civil proceedings associated with assets seized by police during arrests could be expedited.

We found that the Police Department had an inventory of about 100 vehicles, cash and other assets totaling more than \$2 million that potentially could be forfeited to the Department upon successful completion of civil proceedings tried by the Commonwealth's Attorney's Office. However, the Commonwealth Attorney's Office had higher priority criminal cases to handle that made it difficult to proceed with many of the County's civil seized asset cases.

After we discussed this with the County Attorney, he and the Chief of Police met with the Commonwealth's Attorney on October 30, 2009. The Commonwealth's Attorney agreed to allow the County Attorney's staff to provide assistance to his Office on seized asset civil cases.

Subsequently, the Commonwealth's Attorneys Office arranged to bring 60 seized asset cases to court on December 16, 2009. Of the 60 cases, 46 cases involved \$172,000 in seized cash and 14 involved seized vehicles.

By using some of the seized vehicles that are forfeited, the Police ultimately may be able to reduce lease and rental costs incurred for undercover vehicles.

### **Assets Used in Certain Illegal Activities Can be Seized and Forfeited to the Police**

The Comprehensive Crime Control Act of 1984 authorized federal officials to implement a national asset forfeiture program. Forfeiture statutes are now prevalent throughout the federal code.

In 1990, the citizens of Virginia voted to adopt laws allowing local law enforcement agencies to benefit from the seizure of monies, property, and goods connected with the illegal distribution of narcotics.

Pursuant to Va. Code Ann. § 19.2-386.22 all money and property used in substantial connection with the manufacture, sale or distribution of an illegal narcotic may be seized by a law enforcement agency. Anything of value furnished or intended to be furnished in exchange for controlled substances may also be seized. Further, all money and property, real or personal, traceable to an exchange is subject to seizure.

Similar provisions exist in Va. Code Ann. § 19.2-386.30 regarding assets seized from illegal gambling and certain other illegal activities.

These federal and state laws made it possible for law enforcement agencies to receive the proceeds from the sale of items obtained in substantial connection with drug trafficking, gambling, and other illegal activities and to have forfeited to them, for Police Department use, certain seized items that could be used to promote law enforcement.

In Virginia, prior to the enactment of the 1990 law, all monies seized and received from the sale of forfeited items were turned over to the State Literary Fund.

With the enactment of the 1984 and 1990 laws came the establishment of the U.S. Department of Justice's Asset Forfeiture Program and the Virginia Forfeited Asset Sharing Program. Once an item is seized by Fairfax Police, the Department must decide whether it would like to pursue forfeiture under the Federal, or Virginia, Forfeited Asset Sharing Program. As a practical matter, the seizure proceeding is usually instituted in the same court as the criminal proceeding.

Our review focused on the assets seized that involve the Virginia Forfeited Asset Sharing Program because court cases involving these assets are tried by the Commonwealth's Attorney's Office.

#### **Inventory of Assets Seized by the Fairfax Police Department**

The Police Department has an inventory of seized assets associated with the Virginia Forfeited Asset Sharing Program, primarily consisting of cash and vehicles. Police Department staff provided us with a list showing that the estimated value of those assets was more than \$2 million as of September 2009.

The Police Department said that it had about 100 seized vehicles in its inventory. The vehicles were being stored at secure locations throughout the County. We visited one site where vehicles were stored. As with virtually any vehicle, these vehicles were losing value while awaiting civil court cases to determine if they would be forfeited to the Police.

For most of the seized assets, criminal cases already had been tried in court and the defendants found guilty. However, separate civil court proceedings are required in order to determine whether the seized assets should be forfeited to the Police Department for its use.

Forfeiture cases are tried like any other civil case. However, only the Commonwealth's Attorney has the statutory authority to institute and prosecute such cases.

The process is commenced by the Commonwealth's Attorney filing an information identifying the property that has been seized and is subject to forfeiture. The owner of the property must be served with the information and has the right to file an answer and defend the action.

If the owner denies the connection between the criminal activity and the seized asset, the Commonwealth's Attorney must prove, usually through witnesses' testimony, the connection between the criminal activity and the seized asset.

If the Commonwealth's Attorney does prove the connection between the seized asset and the illegal activity, then the Court enters an order that provides that the asset is forfeited and can be used for law enforcement purposes only. If the connection is not established, then the judge orders the asset to be returned to its owner.

Due to the necessity of having to give priority to trying important criminal cases, the Commonwealth's Attorney's Office does not have enough time or staff to devote to civil proceedings for some of the seized assets held by the Police Department. This is especially true for vehicles, which are more difficult to process if they have liens on them, were stolen from innocent civilians prior to their use in criminal activity, or had other issues associated with them.

**The County Attorney's Office Is Working with  
The Commonwealth's Attorney's Office to  
Expedite Civil Seized Asset Forfeiture Cases**

We met with Police Department staff and with the County Attorney and his staff to discuss the issue of seized assets. The County Attorney volunteered to meet with the Commonwealth's Attorney to discuss options to expedite the civil court proceedings.

On October 30, 2009 the County Attorney and Chief of Police met with the Commonwealth's Attorney to discuss how the civil forfeiture cases might be expedited.

The Commonwealth's Attorney was very cooperative, and understood the problem. He explained the need for his Office to focus primarily on important criminal cases, but agreed it would be beneficial to allow the County to provide assistance to his Office to expedite the civil seized asset cases.

The County Attorney agreed to provide a paralegal to prioritize the seized asset cases. Once that process is completed, the County Attorney agreed to provide an attorney from his office to work with the Police Department and Commonwealth's Attorney's Office on clearing the backlog of forfeiture cases.

The Commonwealth's Attorney also said he would have one of his attorneys provide additional attention to seized asset cases to reduce the backlog.

These actions by the Commonwealth's Attorney and the County Attorney's Office proved to be very help helpful in getting a number of the cases on the Police Department's list resolved during this quarter.

On December 16, 2009, the Commonwealth's Attorney's Office is scheduled to proceed with 60 of the County's seized asset cases. Of the 60 cases, 46 involve cash seized in the amount of \$172,000 from criminal prosecutions related to drug cases. The remaining 14 cases involve seized vehicles.

Assuming that the Commonwealth's Attorney is successful in having the \$172,000 forfeited, the Police Department only receives a percentage of that amount because the Commonwealth's Attorney is entitled to 20% of the amount forfeited, the Department of Criminal Justice Services, which operates the Virginia Forfeited Asset Sharing Program, is entitled to 10% of the amount forfeited, and, if any other local law enforcement agencies were involved in the criminal prosecution and seizure, they also receive a percentage of the amount forfeited based on the extent of their involvement.

Seized cash forfeited to the Police will be used by the Police Department for a number of purposes to promote law enforcement, such as:

- Activities to Enhance Future Investigations – The support of investigations and operations that may result in further seizures and forfeitures, such as payments to informers; and “buy”, “flash” or reward money;
- Law Enforcement Training – The training of investigators and law enforcement support personnel in any area that is necessary to perform official law enforcement duties, except that the payment of college tuition, hospitality suites at conferences, and other indirect training expenses are not allowed; and
- Law Enforcement Equipment and Operations – The purchase of body armor, firearms, radios, cellular telephone, computer equipment, uniforms, travel, transportation, supplies, leasing of office and other space for task force and undercover operations, and leasing or purchase of other types of equipment that support law enforcement activities.

With regard to seized vehicles that are forfeited to the Police, they may be sold, and the cash used to promote law enforcement, or they may be used in undercover operations.

This ultimately may reduce the number and cost of vehicles currently being leased or rented by the Police for undercover work.

### **REVIEW OF CHANGE ORDERS ASSOCIATED WITH THE DULLES CORRIDOR METRORAIL PROJECT**

The Dulles Corridor Metrorail Project (the Project) is a 23.1 mile extension of the Metrorail system in the Dulles Airport Corridor in Northern Virginia. It extends the existing 106 mile Metrorail system from the Orange Line in Fairfax County through Tysons Corner to Dulles Airport and beyond.

The construction will be done in two major phases. Phase 1, which is 11.7 miles, is the extension to Wiehle Avenue, and Phase 2, which is 11.4 miles, extends to Dulles Airport and beyond to Route 772 in Loudoun County.

The cost of Phase I is \$2.6 billion. A contract for Phase I was signed on July 25, 2008, with Dulles Transit Partners, LLP. Fairfax County's share of Phase I of the Project is about 16%.

The expected completion date for Phase I is late 2013. Phase II is expected to be completed early in 2017. The Project is being overseen by the Metropolitan Washington Airports Authority (Airports Authority).

At our June 2009 Audit Committee meeting, the Committee asked that our office monitor change orders associated with The Project.

### **Dulles Rail Project Change Order Process**

We met this quarter at Reagan National Airport with the Project executive director and the internal auditor for the Airports Authority for a briefing on The Project and its change orders. We also toured The Project construction work underway at Tysons Corner.

Once the need for a change order has been agreed to, the process for change orders, whether requested by the contractor or by one of the parties to the contract, (including Fairfax County), is that a cost estimate is made by the contractor and an independent cost estimate is prepared by the Airports Authority. Negotiations ensue on the two estimates until an amount is arrived at. A justification is provided for each change order.

More specifically, change orders are processed in accordance with the Design Build Contract (Article 19) and the Federal Transportation Administration approved Project Management Procedures Manual as follows:

- A Request for Change Order is received from the contractor, Dulles Transit Partners, or one of the parties to the contract. The request identifies the nature of the change, the reason for the change, a description of the work to be

accomplished, and a budget including person-hours by skill type and the cost of the change order.

- The Airports Authority has a Request For Change Order board comprised of its General Engineering Contractor (Jacobs Engineering), Airports Authority staff, and Dulles Transit Partners. They meet and discuss the change orders weekly.
- The General Engineering Contractor conducts an independent evaluation of the Request For Change Order and determines whether to accept, reject or modify the work effort or budget.
- The General Engineering Contractor provides its recommendation to the Airports Authority project management staff, and the Airports Authority staff reviews the documentation and acts on the recommendation.
- A meeting is convened with Dulles Transit Partners, the General Engineering Contractor, and the Airports Authority staff to finalize the disposition of the Request For Change Order.
- Change Orders must be approved by the Airports Authority's Contracting Officer's Technical Representative and a Procurement Contracting Officer.

**Change Orders Approved**  
**As Of October 2009**

As of October, the latest date for which change order information had been published, there had been \$26.9 million in approved change orders for the Design and Build portion and the Utility Relocation portion of the contract.

We requested information on the change orders that have been approved for more than \$1 million as of October 2009. The details on those change orders are as follows:

- **Design and Build 004 for \$1,487.630 – To Incorporate Alternate T-123 Station Configuration**

This change order relates to modification of station superstructure to accommodate clear zone and sight distance requirements prescribed by the Virginia Department of Transportation (VDOT). It also addresses minor design modifications internal to the station and fire/life/safety issues.

- **Design and Build 016 for \$1,010,898 – For Re-sequencing of Aerial Construction at the Beltway (Pier 59)**

Pier 59 is located adjacent to the Westpark Road bridge which is being widened as part of the Beltway HOT Lanes construction project. Since the VDOT contractor, Flour/Lane, was doing construction first, and pier 59 needed to be designed and

constructed to coincide with the bridge widening, VDOT requested that the rail project undertake this at an earlier time than scheduled. This required mobilization of a design and construction team significantly ahead of schedule for this one task.

- **Design and Build 019 for \$6,588,473 – To revise configuration of Traction Power Substations to include 11 instead of 9 Substations.**

The original design of the extension to Wiehle Avenue used Washington Metropolitan Area Transit Authority (WMATA) criteria for determining the number and location of Traction Power Substations (TPSS) - - 11 TPSS were considered necessary to meet these requirements. A simulation study was conducted and found that the system could operate, theoretically, with 9 TPSS; so the cost of 2 TPSS was removed from the project cost. Since then, WMATA has stated it would be more prudent and operationally feasible to operate with the 11 TPSS. The costs of the 2 TPSS are represented by this change order.

- **Design and Build 020 for \$1,014,993 – For New Expansion Joint Detail for Aerial Guideway and Ballast Track**

This change order modifies the type of expansion joints for aerial guideways and ballast track. This new expansion joint should reduce deterioration and maintenance.

- **Utility Relocation 013 for \$12,831,746 – For Lane Subcontract Change in Execution**

This change order is for utility relocation. The utility contract was initially let as a time and materials contract because of the unknowns relating to the extent of fiber optic communications and the extent of “black” fiber in the Tysons Corner area. As construction advanced, it became clear that quantities negotiated for excavation, linear feet of duct-bank, conduit, etc were insufficient to complete the relocation of utilities. This change order was executed to increase quantities of these materials and the labor required for installation. The contract was also modified from time and materials to a guaranteed maximum price, with underruns being shared by the contractor and the Airports Authority.

A monthly progress report is published by the Airports Authority that includes the change orders approved, and the change orders under consideration. Receiving this report each month will enable County officials to keep informed with regard to the Project’s development, as well as the nature of, and cost of, the change orders.

## **REVIEW OF LOW INCOME HOUSING CONTROLS**

At the June 2009 Audit Committee meeting, the Committee requested information concerning how Fairfax County’s Department of Housing and Community Development (DHCD) verifies income eligibility for participants in affordable housing rental



programs. The request was made in part because of concerns as to whether some participants in the housing programs had incomes that exceeded income caps designed to ensure that only the neediest received assistance.

We met with DHCD officials to determine what actions are taken to ensure that the incomes of residents in low income rental programs are verified to ensure their original, and continued, eligibility.

We found that DHCD takes action annually, as well as throughout the year, to monitor the incomes and adjust the subsidies of the residents in the low income rental programs.

The DHCD also maintains a Compliance Unit and fraud hotline which receives calls from citizens, homeowner associations, and the Board of Supervisors regarding alleged program violations, resulting in investigations. From April through September 2009, these investigations resulted in 101 hearings conducted by the Compliance Unit. As a result of these hearings, housing assistance provided to 72 families in the Public Housing and Housing Choice Voucher programs was terminated.

### **The County Administers Three Housing Rental Programs**

There are three major housing programs administered by DHCD, two of which are Federal. The Federal programs, which come under the Federal Department of Housing and Urban Development (HUD) are the Housing Choice Voucher Program (formerly known as the Section 8 Program), and the Public Housing Rental Program. The County program is the Fairfax County Rental Program.

#### **Housing Choice Voucher Program**

The DHCD administers the Federal Housing Choice Voucher rental subsidy program for Fairfax County, and for the City of Falls Church, the City of Fairfax, and the Town of Herndon. As of November 2009, there were about 3,400 individuals or families participating in the Housing Choice Voucher Program.

Participants in this program receive assistance in the form of vouchers to rent privately-owned housing units that are located in apartment complexes, condominiums, townhouses, or single-family homes.

Federal rules allow incomes up to 80% of Area Median Income; however more than 75% of new admissions go to households with incomes at or below 30% of the median income for the Washington, D.C. Metropolitan Statistical Area, in accordance with federal regulations.

Applicants must qualify by income based on household size. As household income increases, the subsidy is reduced until no housing assistance is provided, the participant is

paying the full rent amount, and the program participation ends. Under this program, all of the subsidized units are inspected and approved by DHCD.

### **Public Housing Program**

The second federally subsidized program, the Public Housing Program, involves 1,063 units of Public Housing owned by the Fairfax County Redevelopment and Housing Authority (FCRHA). The units are managed and maintained by DHCD.

Units include townhouses, garden apartments, and condominiums, and are located throughout the County. As with the Housing Choice Voucher program, the majority of new admissions are to households with incomes below 30% of Area Median Income in the Metropolitan Statistical Area.

Tenants pay 30% of their income for rent. Applicants must also qualify by income, based on Household size. As household income increases, the rent paid to the FCRHA increases until they pay the flat rent amount, which is equivalent to a market rate rent. When household income exceeds 100% of Area Median Income, the household is informed that their lease will not be renewed with the FCRHA.

### **Fairfax County Rental Program**

The Fairfax County Rental Program includes all rental property owned by the FCRHA and developed with non Public Housing funds, although most have some form of federal financing or funding. There are 1,932 rental units for families in the program, excluding senior and specialized housing units and beds.

The rental income program generally serves working households with incomes which are higher than those households in the Public Housing and Housing Choice Voucher programs, generally up to 50% of Area Median Income at initial occupancy. Generally, participants pay a minimum rent or 30% of their household income, whichever is greater, up to a maximum rent for their property. Applicants must also qualify by income for their unit/household size.

### **Annual and Interim Income Recertifications**

The DHCD performs an annual recertification of income and assets for tenants receiving rent subsidies under these three programs. About 18 DHCD staff are directly involved in the recertification process.

In addition to the annual recertification, throughout the year, tenants must report any interim changes to income, household size, or other factors affecting their subsidy amount. They are required to report such changes within 10 business days of their occurrence.

The DHCD annual reviews are performed on or about the tenants' one year anniversary date, or lease date, not on a calendar year basis. For all three programs, the certification process, which determines the level of rental subsidy that the tenants will receive for the next year, is very similar. As the household income increases, the Housing Choice Voucher subsidy decreases, or the Public Housing rent increases.

For the two Federal programs,

- The FCRHA sends each tenant a letter 120 days before the annual recertification is due. They tell the tenants what information they will need to provide, have them complete a Housing Application Form and schedule an interview for the certification.
- The form asks the tenant for information about who is the head of the household and the household composition. It also requires the tenant to provide information on all types of household income and assets, estimated vehicle and household monthly expenses for the coming year, and certain supplemental information, such as any criminal charges or convictions, language spoken, etc. The head of household and all other adult members of the household must sign and date the form.
- Before the interview, DHCD obtains a report from HUD, called an Enterprise Income Verification (EIV) report, for the head of household and all adult members of the household. This report is used to verify employment and income for all household members. Using social security numbers the report shows any quarterly employment and income earned by any members residing in the household.
- If there is a discrepancy between income the tenant reported on the Housing Application form and income shown on the EIV report, then the employer is contacted and asked to submit employment and income verification directly to the DHCD. Discrepancies are resolved during the interview process.
- Any cash assets reported are verified with bank statements and account verifications from the banks. A six month average is used for verification purposes.
- Once all of the information is verified and accurate, it is entered into the HUD system on HUD Form 50058 and the subsidy amount is calculated based on reported information. The FCRHA is required by HUD to be at least 85% accurate in the submission of the 50058 information. This percentage is verified through periodic audits.

For the Fairfax County rental program, the tenant recertification is basically the same as for the Federal programs, except that the County cannot use the EIV system to verify income and employment. Instead, it uses other sources to verify income, including

information from Social Security Benefit Statements, the Virginia Employment Commission, direct employer and third party verification, and credit reports

DHCD also contracts with a private company called “Accurint” which tracks address and credit data on individuals.

**A Compliance Unit and  
Fraud Hotline Also Are Used  
To Investigate Income Discrepancies**

A DHCD Compliance Unit was established in 1999. It includes a Branch Chief and one part time and two full time investigators who are charged with investigating suspected incidents of fraud, including the under-reporting of income by participants, for all three of the rental housing programs

The Compliance Unit also consists of staff not directly involved in investigations, including an inspections team for Public Housing, Housing Choice Voucher, and Fairfax County Rental Program units; two family self-sufficiency specialists; the agency risk manager, and an administrative assistant. This unit also monitors a fraud hotline for citizen complaints involving these programs.

The Branch Chief of the Compliance Unit provided statistics for the last quarter of Fiscal Year 2009 and the first quarter of Fiscal Year 2010. They showed that for the 6 month period there were 101 hearings conducted as a result of fraud referrals received, of which the DHCD prevailed in 72 cases and the housing assistance provided to families through the Department was terminated.

**CONTINUED REVIEW OF  
TAKE HOME VEHICLES**

During this quarter, we continued our County-wide review of take home vehicles. The request was initiated at the request of the Board of Supervisors after questions were raised by the media regarding vehicles taken home by the Fire and Rescue Department.

In our June 2009 report, we stated that eight County agencies will eliminate a total of 30 take home vehicles for Fiscal Year 2010. Reducing the number of take home vehicles by 30, and the reduction of overtime and other costs associated with those vehicles, should result in savings of \$700,000, or more, which would satisfy the take home vehicle cost reductions required by the Board of Supervisors in the Fiscal Year 2010 County budget.

This quarter, at the request of the Audit Committee, we continued our review. We focused on the Public Safety Agencies, which have 466, or more than 90 percent of the County’s take home vehicles.

After reductions made in the number of take home vehicles, for Fiscal Year 2010, the Police had 396 vehicles, the Fire and Rescue Department had 36 vehicles, and the Sheriff's Office had 34 take home vehicles.

We looked at the justifications for, and the use of those take home vehicles in terms of the number of call backs involving those vehicles.

### **Police Department**

The Police Department justifies its take home vehicles by its determination that without having such vehicles there would be a need for a considerably larger Police force. For example, allowing SWAT Team personnel to have take home vehicles allows for 24 hour availability of SWAT team staff to respond to emergencies where such a team is needed. The Police contend that without this arrangement, there would need to be three SWAT teams working eight hour shifts rather than one SWAT team.

Having police On-Call, and on Constant Stand By, reduces the need for additional police. The On-Call personnel have highly specialized skills and are designated and compensated in accordance with County policy for being On-Call during a specified period or on a rotating basis. Personnel assigned to On-Call status understand that they are the first responder associated with their highly specialized skill or position, and are expected to be en route to a callback assignment within 30 minutes of notification.

The Police Department does not maintain separate call back records of each instance of call backs. However, officers are required to record call back hours worked.

Officers called back to work are credited with a minimum of four hours for each instance, excluding travel time.

To obtain an indication of the number of times officers were called back in Fiscal Year 2009, we obtained time and attendance payroll information for all 26 pay periods for that year. We counted and summarized the number of call backs, and the number of officers called back.

The records indicate that 476 different officers were called back in a total of 3,337 instances. Of these, 94 officers were called back from 10 to 61 times. An additional 86 officers were called back from 5 to 9 times. The remaining 296 officers were called back from 1 to 4 times.

The Police records indicate that call backs were for a variety of reasons, including homicide, suicide, shootings, rape, SWAT and gang related incidents, vehicle tampering, search warrants, drowning and surveillance activities.

### **Fire and Rescue Department**

Fire and Rescue Department policy cites three categories of take home vehicles:

- Constant Call Out Vehicles – to maintain an operational level of staff and ensure that senior command and critical staff is available to respond to emergency fire and rescue incidents on a twenty-four hour basis;
- On-Call Vehicles – taken home on a rotating basis when employees are on call to enable the Department to maintain an operational level of technically competent staff to respond to emergency fire and rescue incidents on a twenty-four hour basis; and
- Special Exemption Vehicles – assigned to staff, such as the K-9 Investigator, subject to call out based on their assigned functions, which allows the Department to maintain a surge capacity of technically competent staff to respond during increased call volume periods.

Fire and Rescue Department staff said that they review the use of vehicles, including take home vehicles, periodically and that during Fiscal Years 2009 and 2010 they have taken actions that have reduced the number of take home vehicles by a total of 18; reduced the number of leased vehicles by 4; and eliminated 2 on call pay positions.

Fire and Rescue staff said that during Fiscal Year 2009 they had stopped allowing 12 fire and hazardous materials investigators to take their vehicles home. Department officials further reduced the number of take home vehicles by 6, (from 42 to 36), for Fiscal Year 2010. Eliminated were vehicles for two EMS battalion chiefs, two captains from the training division, the safety battalion chief and the EEO officer. The vehicles eliminated had been on the Constant Call Out list which allows vehicles to be taken home by personnel who have specific emergency call-out supervisory responsibilities.

In addition, the Department said it turned in four leased vehicles, eliminating leasing costs for those vehicles. The Department has retained one leased vehicle.

The Department also created a new Report of After Hours Vehicle Use that provides for supervisory review and signature.

With regard to call backs, we reviewed data provided by Fire and Rescue Department staff for Fiscal Year 2010, from July through November, for 29 of its 36 take home vehicles. One of the designated take home vehicles was for a Captain II – Investigations position which was vacant as of December 2009. Six of the 36 vehicles are not tracked because, according to Fire and Rescue Department staff, they are marked vehicles, used on a less frequent basis, and assigned on a rotating basis to the following positions:

- Duty Apparatus Officer
- Duty Apparatus Mechanic
- Duty PIO
- Duty Logistics Officer
- Duty Communications Officer, and
- Duty NCR Radio Cache Officer

These vehicles are assigned based on the “on-call” needs of the Department. Fire and Rescue Department staff said they do not track the usage of these six vehicles due to the sporadic instances of use.

The information provided for the 29 vehicles for which call back information was available shows that during July through November 2009 there were 624 call backs reported. Of that number it appears that 103 were for fires, hazmat situations, vehicle accidents K-9 assistance and other incidents. They were responded to by 21 individuals. The remainder of the 521 other call backs were for meetings, official representations and other purposes. Eight individuals reported no call backs for incidents, three reported one call back and four reported two call backs for incidents.

### **Sheriff's Office**

The Fairfax County Sheriff's Office has 34 staff positions that have been identified as being eligible for the use of a take home vehicle. It has two groups that utilize take home vehicles; the Civil Enforcement Branch, with 24 take home vehicles, and the Sheriff's Office Command and Emergency Response Staff with 10 take home vehicles.

### **Civil Enforcement Branch** **Uses Take Home Vehicles** **To Serve Warrants and Summonses**

The Civil Enforcement Branch is responsible for the execution of civil process for all legal process addressed to residents and businesses located in Fairfax County. This process originates from the Fairfax County Court System and other court systems throughout the Commonwealth and the United States.

Certain civil process, such as protective orders, civil arrest warrants, and levies require a deputy to deliver processes in person, take an individual into custody, or physically see and levy an item of personal property.

We discussed the Sheriff's Office's work with Department of Tax Administration staff. They told us that the administrative powers of the Director of the Department of Tax Administration allow for the seizure of personal property (such as by vehicle boot/levy, the direct seizure of money from a business's cash register, or seizure of goods) to enforce the payment of taxes. This may be followed by public sale if the taxes are not paid in full.

Once it is determined that a seizure is warranted, paperwork is prepared by Tax Administration staff and sent to the Sheriff's Office where the Sheriff's staff delivers the warrant or administrative summons to the citizen or business.

In FY 2009, The Civil Enforcement Branch executed 177,433 civil processes and, according to the Department of Tax Administration, recovered about \$1.4 million for distress/seizure warrants.

Tax Administration staff said that typically, the delivery of warrants, administrative summonses and other civil process is accomplished in the evening and on weekends when most people are at home.

Quite often, civil respondents and/or their vehicles are away at work during normal business hours or are actively avoiding contact with civil enforcement deputies.

According to Sheriff's Office staff, deputies are more successful in locating individuals and personal property before and after normal business hours and on Saturdays. The Sheriff's Office has determined that Civil Enforcement Branch personnel can best accomplish this mission with the use of take home vehicles.

Of the 24 staff members assigned to the Civil Enforcement Branch, 21 deputies have a take home vehicle. Three other deputies do not live within the 30 mile county boarder limit and do not take their vehicle home. Instead, each parks their assigned vehicles at a Fairfax County facility that is secure, and closest to their residence.

### **Command and Emergency Response Staff**

The Fairfax County Sheriff's Office Command Staff is composed of seven individuals. The Sheriff, two Chief Deputy Sheriffs, and four Deputy Sheriff Majors (Division Commanders) make up the Command Staff.

Each of these individuals utilizes a take home vehicle; however, call back information on those vehicles is not maintained. The activities of the Sheriff and his Command Staff range from administrative duties required after hours to responding to Sheriff's office emergencies within their scope of responsibility.

According to the Sheriff's Office, some of these responsibilities are constant, such as representing the Sheriff on County Boards and Commissions, while others are unscheduled but similarly need the representation of Sheriff's Office Command Staff in the discussion of county-wide issues.

In addition to these seven vehicles, the Sheriff's Office Internal Affairs Supervisor is assigned a take home vehicle and is on call to respond to all agency issues which may involve the investigation of an agency employee.

The Sheriff's Office Emergency Preparedness and Response Supervisor is the direct liaison to the County's Office of Emergency Response. He is responsible for the initial coordination of a Sheriff's Office response to any agency or county-wide emergency.

The Sheriff's Office Communication Officer has a specially configured vehicle which can provide both county and Council of Government communication interoperability. Originally configured to provide back up communications for the Sheriff's Office Adult Detention Center in the event of a communications failure, this staff member and vehicle,



according to Sheriff's Office staff, has been utilized by the Fairfax County Police Department on very high profile incidents.

### **Conclusion**

In the current atmosphere of difficult budgets, a number of localities across the country are looking at reducing take home vehicles.

Fairfax County agencies already have taken steps to decrease the number of take home vehicles, reducing the total number by 30 in Fiscal Year 2010, and taking other actions, such as turning in rental vehicles and downsizing Police vehicles, to effect savings.

The Police, Fire and Rescue Department and Sheriff's Office, which have more than 90% of the County's take home vehicles, have been among the agencies reducing take home vehicles and taking other actions to reduce vehicle costs. As the 2011 budget process continues, these three agencies will have an opportunity to work with the County's Department of Management and Budget to determine if further reductions are possible.

Call back records indicate that certain individuals with take home vehicles are responding to Police emergencies on many occasions, while others respond less frequently. Similarly, some Fire and Rescue staff have been responding to various fire, hazmat and K-9 incidents while others are using their take home vehicles primarily for meetings and representations.

The Sheriff's Office's process servers with take home vehicles do much of their work before and after normal working hours, and on Saturdays using those vehicles, but, since call back records are not maintained, it is not clear whether the responsibilities of the Command Staff, which tend to involve activities such as representing the Sheriff at meetings of County Boards and Commissions, would require all Command Staff to have take home vehicles.

As the budget decisions for Fiscal Year 2011 are being made, we hope the information provided in this report regarding take home vehicles will be useful to Department of Management and Budget staff and to Police, Fire and Rescue Department and Sheriff's Office staff in determining whether additional reductions in take home vehicles, for at least the time being, would be a prudent step in balancing each agency's budget.